

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-3115
of K & M Telephone Company,)
Chambers, seeking a Suspension)
or Modification of the Federal)
Communications Commission) INTERIM RELIEF GRANTED
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47)
U.S.C. § 251(f)(2).) Entered: March 23, 2004

BY THE COMMISSION:

This cause came to be heard by the Nebraska Public Service Commission upon the filing of a Motion by K & M Telephone Company of Chambers, Nebraska, on February 23, 2004, seeking an order granting interim relief pursuant to 47 U.S.C. § 251(f)(2) and requesting a hearing (hereinafter referred to as Motion for Interim Relief.) In support of its Motion, K & M Telephone Company avers that it has filed an application with the Commission, pursuant to 47 U.S.C. § 251(f)(2) seeking suspension or modification of the requirement set forth *In the Matter of Telephone Number Portability*, CC Docket 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 03-284 (rel. November 10, 2003). The Intermodal Order obligates local exchange carriers located outside the top 100 metropolitan statistical areas (MSAs) to provide local number portability (LNP) and to be ready to port numbers to wireless carriers when certain conditions have been met. This obligation begins on May 24, 2004. Section 251(f)(2) gives this Commission the jurisdiction to suspend or modify requirements of the Federal Communications Commission (FCC) for rural carriers when such relief is sought. The language of this section reads in pertinent part:

(2) Suspensions and modifications for rural carriers .
. . The State commission shall grant such a petition to
the extent that, and for such duration as, the State
commission determines that such suspension or
modification-

(A) is necessary-

- (i) to avoid a significant adverse economic impact on users of telecommunications services generally;
- (ii) to avoid imposing a requirement that is unduly economically burdensome; or
- (iii) to avoid imposing a requirement that is technically infeasible; and

(B) is consistent with the public interest, convenience and necessity.

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. **Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.** 47 U.S.C. § 251(f)(2)(Emphasis Added).

O P I N I O N A N D F I N D I N G S

Upon consideration of the Motion for Interim Relief, the Commission is of the opinion and finds said Motion for Interim Relief from the obligation to implement local number portability should be granted pending the review of this application until further notice by the Commission. The Commission will not set a date certain for the enforcement of the local number portability requirement at this time as requested. Rather, the Commission will make a determination on the duration of the interim relief after it has received evidence and held a hearing on the application. At that time, the Commission will further consider the time needed by this carrier to implement LNP.

Clearly, because of time constraints on the Commission's calendar, the 180-day timeframe in which the Commission must render its decision, and because of the number of applications filed with the Commission seeking a suspension under 47 U.S.C. § 251(f)(2), it would be difficult for the Commission to hold an evidentiary hearing and make its ruling on this and every application for suspension or modification of the LNP requirement filed prior to the May 24, 2004, deadline. The Commission finds it appropriate to grant this Motion for Interim Relief pending our review of this application.

The present decision to grant interim relief should in no way serve as an indication as to how we will rule on the merits of the underlying application.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Motion for Interim Relief be granted and the enforcement period be suspended until a date later to be determined by the Commission as provided herein.

MADE AND ENTERED at Lincoln, Nebraska, this 23rd day of March 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director